

BEFORE THE IOWA BOARD OF PHARMACY

RE:
Pharmacist License of

DAN POMEROY
License No. 16031
Respondent

CASE NO. 2018-168

**COMBINED STATEMENT OF CHARGES,
SETTLEMENT AGREEMENT, AND FINAL
ORDER**

COME NOW the Iowa Board of Pharmacy ("Board") and Dan Pomeroy ("Respondent"), 515 Main St, Coon Rapids IA 50058, and enter into this Combined Statement of Charges, Settlement Agreement, and Final Order ("Order") pursuant to Iowa Code sections 17A.10 and 272C.3(4), and 657 IAC 35.5. The Board has jurisdiction over Respondent and the subject matter of this case pursuant to Iowa Code chapters 17A, 147, 155A, and 272C (2018), and 657 IAC 36.

A. STATEMENT OF CHARGES

COUNT I

FAILURE TO SECURE PHARMACY IN ABSENCE OF PHARMACIST

1. Respondent is charged with not securing the pharmacy department from public access during the temporary absence of a pharmacist in violation of 657 IAC 6.7(2)"a", and may be disciplined pursuant to Iowa Code section 155A.12(1) and 657 IAC 36.6(21).

COUNT II

ALLOWING PROHIBITED ACTIVITIES IN ABSENCE OF PHARMACIST

2. Respondent is charged with dispensing prescription drugs to patients during the temporary absence of a pharmacist in violation of 657 IAC 6.7(3)"a", and may be disciplined pursuant to Iowa Code section 155A.12(1) and 657 IAC 36.6(21).

COUNT III

UNREGISTERED PHARMACY SUPPORT PERSON

3. Respondent is charged with employing a person to assist a pharmacist with nontechnical functions associated with the practice of pharmacy who is not currently registered as a pharmacy support person and may be disciplined pursuant to Iowa Code section 155A.12(1) and 657 IAC 36.6(27).

B. FACTUAL CIRCUMSTANCES

4. Respondent's pharmacist license number 16031 is currently active through June 30, 2019.

5. Respondent is the owner and pharmacist in charge at Coon Rapids Pharmacy in Coon Rapids, Iowa.

6. On December 27, 2018, a Board compliance office went to Coon Rapids Pharmacy for purposes of conducting a routine inspection.

7. When the Board compliance officer arrived, Respondent was not present but the door to the pharmacy department was open.

8. An employee who was present in the front end of the store indicated that she fielded phone calls for refill prescriptions and sold refill prescriptions when Respondent was absent. The employee did not hold any type of license or registration from the Board.

C. SETTLEMENT AGREEMENT AND FINAL ORDER

9. The Board has jurisdiction over the parties and the subject matter of these proceedings.

10. Respondent acknowledges that the allegations in the Statement of Charges, if proven in a contested case hearing, would constitute grounds for the discipline agreed to in this Order.

11. Execution of this Order constitutes the resolution of a contested case. Respondent has a right to hearing before the Board on the charges, but Respondent waives the right to hearing and all attendant rights, including the right to appeal or seek judicial review of the Board's action, by freely and voluntarily entering into this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

12. Respondent acknowledges that he has the right to be represented by counsel on this matter.

13. Respondent agrees that the State's counsel may present this Order to the Board and may have *ex parte* communications with the Board while presenting it.

14. This Order is subject to approval by a majority of the full Board. If the Board does not approve this Order, it shall be of no force or effect to either party, and shall not be admissible for any purpose in further proceedings in this matter. If the Board approves this Order, it shall be the full and final resolution of this matter.

15. This Order shall be part of Respondent's permanent record and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.

16. Respondent understands the Board is required by federal law to report any adverse action to the National Association of Boards of Pharmacy's Disciplinary Clearinghouse and the National Practitioner Data Bank.

17. This Order, when fully executed, is a public record and is available for inspection and copying in accordance with the requirements of Iowa Code chapters 22 and 272C.

18. The Board's approval of this Order shall constitute a **FINAL ORDER** of the Board.

IT IS THEREFORE ORDERED:

19. Respondent is hereby **CITED** for failing to secure the pharmacy department in the absence of a pharmacist, allowing prohibited activities in the absence of a pharmacist, and employing an unregistered pharmacy support person and **WARNED** that future violations of the laws and rules governing pharmacies can result in further disciplinary action.

20. Respondent shall re-take and pass the Iowa MPJE exam within six (6) months of the date of this Order.

21. Respondent is responsible for ensuring that Coon Rapids Pharmacy complies with the terms of its probation. Any violations of probation shall be considered a violation of this Order.

22. Should Respondent violate the terms of this Order, the Board may initiate action to impose other licensee discipline as authorized by Iowa Code chapters 147, 155A, and 272C and 657 IAC 36.

3/27/19
Date

Dan Pomeroy, R.Ph.
DAN POMEROY
Respondent

This Combined Statement of Charges, Settlement Agreement, and Final Order is approved by the Iowa Board of Pharmacy on the 2 day of May, 2019.

[Signature]
Chairperson
Iowa Board of Pharmacy